

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE**

UNITED STATES OF AMERICA)
)
)
)
vs.) No. 2:19CR-00096
)
)
ANTHONY NATHAN SMITH)

**MEMORANDUM BRIEF IN SUPPORT OF DEFENDANT'S
MOTION NO. 2 TO SUPPRESS EVIDENCE OBTAINED IN VIOLATION OF THE
UNITED STATES CONSTITUTION**

Pursuant to the Fourth Amendment of The United States Constitution, individuals are protected from law enforcement's execution of unreasonable searches and seizures on their person, their homes, and their effects - warrantless searches and seizures "are *per se* unreasonable . . . subject only to a few specifically established and well delineated exceptions." Katz v. United States, 389 U.S. 347, 357 (1967). If an officer fails to have a warrant or satisfy one of the warrant exceptions, their discovery must be suppressed as "fruits of [an illegal search]." Wong Sun v. United States, 371 U.S. 471, 83 S. Ct. 407 (1963).

Because the Bristol, Virginia policeman searched Mr. Smith's backpack without a warrant and without his consent, the prosecution bears the burden of proving that the search thereof is within some specifically established and well delineated exception to a warrant requirement. Mr. Smith submits that the circumstances do not permit the warrantless search of his backpack on October 9, 2018.

WHEREFORE, for the reasons aforesaid, Mr. Smith submits that law enforcement officers violated his constitutional rights on October 9, 2018, by conducting a warrantless search of his backpack. Therefore, Mr. Smith respectfully requests a suppression of the evidence found pursuant to that unconstitutional search, and requests an evidentiary hearing before this Court.

/s/Jerry W. Laughlin

Jerry W. Laughlin (BPR#002120)

Counsel for Defendant Anthony Nathan Smith

LAUGHLIN, NUNNALLY, HOOD & CRUM, PC
100 South Main Street
Greeneville, TN 37743
423-639-5183

CERTIFICATE OF SERVICE

I hereby certify that notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other interested parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

This the 19th day of June, 2018.

/s/Jerry W. Laughlin

Jerry W. Laughlin

L:\Criminal\Smith, Anthony (U.S. vs.) 19-2101\Memorandum Brief in Support of Motion No. 2 to Suppress Evidence